



Attorney Docket No.: 2103461-991100

## DECLARATION FOR PATENT APPLICATION

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name,

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled

### SPLASH INHIBITING BEVERAGE CONTAINER LID

the specification of which (check one)        is attached hereto or   X   was filed on January 11, 2002 as Application No. 10/043,908 and was amended on        (if applicable).

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose all information which is material to patentability as defined in 37 CFR § 1.56.

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I hereby claim foreign priority benefits under 35 U.S.C. § 119(a)-(d) or § 365(b) of any foreign application(s) for patent or inventor's certificate, or § 365(a) of any PCT International application which designated at least one country other than the United States, listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

Prior Foreign Application(s)	<u>Priority Claimed</u>
	<u>Yes</u> <u>No</u>

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Number	Country	Day/Month/Year Filed		
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Number	Country	Day/Month/Year Filed		
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I hereby claim the benefit under 35 U.S.C. § 119(e) of any United States provisional application(s) below.

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Application Number	Filing Date
Application Number	Filing Date

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I hereby claim the benefit under 35 U.S.C. § 120 of any United States application(s), or § 365(c) of any PCT International application designating the United States, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of 35 U.S.C. § 112, I acknowledge the duty to disclose all information which is material to patentability as defined in 37 CFR § 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application:

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Application Number	Filing Date	Status: Patented, Pending, Abandoned
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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both, under 18 U.S.C. § 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of sole or first inventor Robert Russo

Inventor's signature



3/20/02

Date

Residence 1926 Clover Court, Pleasanton, California 94588

Citizenship U.S.A.

Post Office Address 1926 Clover Court, Pleasanton, California 94588

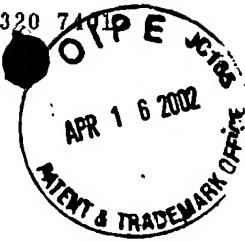
Full name of second inventor Robert Kichinski

Inventor's signature Robert Kichinski Date 4/4/02

Residence 5481 Kathy Way, Livermore, California 94550

Citizenship U.S.A.

Post Office Address 5481 Kathy Way, Livermore, California 94550



Attorney Docket No.: 2103461-991100

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicants: Russo et al.

Group Art Unit: 3727

Serial No.: 10/043,908

Examiner: Not Yet Assigned

Filed: January 11, 2002

Title: SPLASH INHIBITING BEVERAGE CONTAINER LID

\* \* \*

**POWER OF ATTORNEY BY ASSIGNEE**

Assistant Commissioner for Patents  
Washington, DC 20231

Sir:

The undersigned, being Assignee of the entire right, title and interest in the above-identified application by virtue of an Assignment, a copy hereof is attached, under 37 C.F.R. §3.71, to prosecute the application to the exclusion of the Inventor(s), and grants Power of Attorney and correspondence address as stated herein.

Robert Russo, hereby appoints:

Practitioners at Customer Number: 26379 →26379  
PATENT TRADEMARK OFFICE

Attorney Docket No.: 2103461-991100

as attorneys/agents with full power of substitution and revocation to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith.

Assignee:  
*Robert Russo*

Date: 3/20, 2002



Printed Name: Robert Russo

Title: \_\_\_\_\_

**COPY****Assignment Agreement**

This Assignment Agreement (the "Agreement") is made and entered into, as of November 15, 2001 (the "Effective Date"), by and between Robert Kichinski, an individual with a place of residence at 5481 Kathy Way, Livermore, California 94550 ("Assignor") and Robert Russo, an individual with a place of residence at 1926 Clover Court, Pleasanton, California 94588 ("Assignee").

**RECITALS**

- A. WHEREAS, Assignee and Assignor jointly developed a certain innovation; and
- B. WHEREAS, Assignee desires to acquire all right, title and interest in and to Assignor's interest in such innovation;

NOW, THEREFORE, for good and valuable consideration, the parties agree as follows:

**AGREEMENT****1. Definitions.**

1.1 "Innovation" means all inventions embodied in the diagram attached hereto as Exhibit A ("Innovation").

1.2 "Intellectual Property Rights" collectively means any and all patents, patent registrations or applications, business processes, data rights, copyrights, trade names, trademarks, trade secrets, know-how, mask works, or any other intellectual property rights, whether registered or unregistered, arising or enforceable under United States law or the law of any other jurisdiction or international treaty regime, owned by Assignor in the Innovation.

2. **Assignment.** Assignor hereby assigns all of Assignor's right, title and interest in and to the Intellectual Property Rights and the Innovation to Assignee. Such assignment by Assignor shall be to all of Assignor's right, title and interest, worldwide to the Intellectual Property Rights and the Innovation (including, without limitation, the right to sue for past, present and future infringement). Such assignment by Assignor shall be made subject to all of the representations and warranties in Section 4 ("Representations and Warranties of Assignor"). Assignor agrees to assist Assignee, at Assignee's expense, in any reasonable manner in the procurement and maintenance, for Assignee's benefit, of patent, copyright, trademark, trade secret and other proprietary rights in the Innovation in any and all countries. Assignor agrees to execute, when requested, any documents necessary to procure, maintain, or protect any such rights, worldwide and/or to evidence the foregoing assignment. In the event that, due to Assignor's lack of cooperation, Assignee is unable to secure Assignor's signature to any lawful or necessary document, Assignor irrevocably appoints Assignee and its duly authorized officers and agents as Assignor's attorney in fact to execute and file any such document with the same legal force and effect as if executed by Assignor.

3. **Consideration.** As consideration for the assignment hereunder, Assignee and Assignor have executed the letter regarding share in net profit dated November 13, 2001.

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4. Representations and Warranties of Assignor.

4.1 Title. Assignor is the sole and exclusive owner of Assignor's interest in the Intellectual Property Rights and the Innovation. Assignor has good, clear and marketable title to Assignor's interest in the Intellectual Property Rights and the Innovation, in each case free and clear of all licenses, indentures, restrictions, security interests, mortgages, liens, pledges, charges, judgments, claims, encumbrances, or right, title and interest in others ("Liens").

4.2 Authorization. Assignor has full legal right, power and authority to enter into this Agreement. Assignor has the absolute right to assign Assignor's right, title and interest in the Intellectual Property Rights and the Innovation pursuant to this Agreement. This Agreement has been validly executed and delivered by Assignor, and this Agreement constitutes the valid and binding obligations of Assignor and such terms are enforceable against Assignor.

4.3 Conflicts with Other Agreements. The execution and delivery by Assignor of this Agreement and the performance by Assignor of its obligations hereunder will not: (a) conflict with or result in a breach of or constitute a default under any agreement, obligation or liability to which Assignor is a party or by which Assignor is affected or bound; (b) violate any order, writ, injunction, decree, law, statute, rule or regulation applicable to Assignor; or (c) result in the creation or imposition of any lien, claim, restriction, charge or encumbrance upon the Intellectual Property Rights or the Innovation.

4.4 Consents. No consent, approval or agreement of any person, party, court, government or entity is required to be obtained by Assignor in connection with the execution, delivery or performance of this Agreement.

4.5 Infringement. Assignor has not received any notice of, and does not have any knowledge of any basis for, a claim against Assignor that the Innovation infringes on any proprietary right of a third party. Assignor does not have any disputes with or, claims against any third party for infringement by such third party of the Innovation.

4.6 Preservation of Intellectual Property Rights. Assignor has taken reasonable steps to establish, protect and preserve Assignor's interest in the Innovation and all patents, copyrights and trade secrets, if any, applicable to the Innovation. Assignor has not disclosed any proprietary information embodying or related to the Innovation.

4.7 Litigation. There is no litigation, arbitration, claim, governmental or other proceeding (formal or informal) or investigation pending or, to the knowledge of Assignor, threatened, against Assignor with respect to the Intellectual Property Rights or the Innovation.

5. Limitation of Liability. IN NO EVENT SHALL EITHER PARTY BE LIABLE OR OBLIGATED IN ANY MANNER FOR ANY SPECIAL, INCIDENTAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING, BUT NOT LIMITED TO, DAMAGES OR COSTS INCURRED AS A RESULT OF LOSS OF PROFITS OR REVENUE) REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT PRODUCT LIABILITY, OR OTHERWISE, EVEN IF A PARTY HAS BEEN INFORMED OF THE POSSIBILITY OF ANY SUCH DAMAGES IN ADVANCE.

C O P Y

## 6. Confidential Information.

6.1 Scope. For purposes of this Agreement, "Confidential Information" shall mean all nonpublic information, whether in oral, written or other tangible form pertaining to the Intellectual Property Rights and the Innovation that Assignor knows or has reason to know should be treated as confidential, including without limitation, the terms and conditions of this Agreement.

6.2 Nondisclosure and Nonuse Obligation. Assignor agrees not to disseminate, or in any way disclose any Confidential Information to any person, firm or business. Assignor agrees to treat all Confidential Information with the same degree of care as Assignor accords to Assignor's own confidential information, but in no case less than reasonable care. Assignor shall immediately give notice to Assignee of any unauthorized disclosure of Confidential Information. Assignor agrees to assist Assignee in remediying any such unauthorized use or disclosure of Confidential Information.

6.3 Exclusions from Nondisclosure and Nonuse Obligations. The obligations under Section 6.2 ("Nondisclosure and Nonuse Obligations") with respect to any portion of Confidential Information shall not apply to such portion that Assignor can document was communicated by Assignee to an unaffiliated third party free of any obligation of confidence. A disclosure of Confidential Information either (i) in response to a valid order by a court or other governmental body or (ii) otherwise required by law, shall not be considered to be a breach of this Agreement or a waiver of confidentiality for other purposes; provided, however, Assignor shall provide prompt prior written notice thereof to Assignee to enable Assignee to seek a protective order or otherwise prevent such disclosure.

## 7. General Provisions.

7.1 Assignment. Assignee may assign and/or transfer this Agreement to any person or entity.

7.2 Controlling Law. This Agreement shall be governed in all respects by and construed and enforced in accordance with the laws of the United States and the State of California, without regard to its conflict of law principles.

7.3 Modification. This Agreement may be amended, modified or supplemented only by a writing that is signed by the duly authorized representatives of both parties.

7.4 Waiver. No term or provision hereof will be considered waived by either party, and no breach excused by either party, unless such waiver or consent is in writing signed on behalf of the party against whom the waiver is asserted. No consent by either party to, or waiver of, a breach by either party, whether express or implied, will constitute a consent to, waiver of, or excuse of any other, different or subsequent breach by either party.

7.5 Severability. Whenever possible, each provision of this Agreement will be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement, or portion thereof, is held by a court to be invalid, void or unenforceable, the remainder of such provision and the remaining provisions of this Agreement shall remain in full force and effect and shall in no way be effected, impaired or invalidated and the invalid or enforceable provision shall be modified so as to most nearly as possible achieve the intention of this Agreement.

7.6 Notices. All notices permitted or required under this Agreement shall be in writing and shall be delivered as follows with notice deemed given as indicated (i) by personal delivery

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when delivered personally, (ii) by commercially established courier service upon delivery or, if the courier attempted delivery on a normal business day and delivery was not accepted, upon attempted delivery, (iii) by facsimile transmission when confirmed by facsimile transmission, or (iv) by certified or registered mail, return receipt requested, ten (10) days after deposit in the mail. Notices shall be sent to the addresses and/ or fax numbers set forth above or such other address or fax number as a party hereto shall notify the other of in writing.

7.7 Headings. The section headings appearing in this Agreement are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or extent of such section or in any way affect such section.

7.8 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

7.9 Entire Agreement. This Agreement, including all Exhibits to this Agreement, constitutes the entire agreement between the parties relating to this subject matter and supersedes all prior or simultaneous representations, discussions, negotiations, and agreements, whether written or oral.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives.

Assignee:

Robert Russo



Signature

11/18/01

Date

Assignor:

Robert Kichinski



Signature

11/18/01

Date